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11 Attorneys for Plaintiff

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13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15 THERESA M. WEESNER,

)
16 Plaintiff,) Case No.: 2:16-CV-02018-RFB-PAL
17 vs.)
18 NANCY A. BERRYHILL, Acting) **STIPULATION FOR THE AWARD AND
Commissioner of Social Security,) PAYMENT OF ATTORNEY FEES AND
19) EXPENSES PURSUANT TO THE EQUAL
Defendant.) ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d);
20) **[PROPOSED] ORDER**
21)
22)
23)
24)
25)**

26 Stipulation; [Proposed] Order
3:16-cv-00587-HDK-WGC

1 IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel,
2 subject to the approval of the Court, that Plaintiff Theresa M. Weesner (Plaintiff) be awarded attorney
3 fees and expenses in the amount of Five Thousand One Hundred Twenty-Five Dollars (\$5,125.00)
4 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents
5 compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this
6 civil action, in accordance with 28 U.S.C. § 2412(d).

7 After the Court issues an order for EAJA fees to Plaintiff, the government will consider the
8 matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586,
9 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on
10 whether the fees are subject to any offset allowed under the United States Department of the Treasury's
11 Offset Program. After the order for EAJA fees is entered, the government will determine whether they
12 are subject to any offset.

13 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
14 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses
15 and costs to be made directly to counsel, pursuant to the assignment executed by Plaintiff. Any
16 payments made shall be delivered to Plaintiff's counsel at the following address;

17 Olinsky Law Group

18 300 S State St Ste 420

19 Syracuse, NY 13202.

20 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney
21 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or
22 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and
23 all claims that Plaintiff and/or counsel including Olinsky Law Group may have relating to EAJA
24 attorney fees in connection with this action.

25 ///

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27 Stipulation; [Proposed] Order
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This award is without prejudice to the rights of counsel and/or Olinsky Law Group to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: May 1, 2019

OLINSKY LAW GROUP

By: /s/ Howard D. Olinsky
Howard D. Olinsky
Attorneys for Plaintiff

By: /s/ Hal Taylor
Hal Taylor
Attorneys for Plaintiff

Dated: 5/1/2019

Nicholas A. Trutanich
Acting United States Attorney

By: *s/Tina Naicker, Esq.*
Tina Naicker, Esq.
Special Assistant United States Attorney
Attorneys for Defendant

Stipulation; [Proposed] Order
3:16-cv-00587-HDK-WGC

ORDER

Pursuant to stipulation, IT IS SO ORDERED.

In light of the Court granting the parties' [29] Stipulation, IT IS FURTHER ORDERED that

Plaintiff's [26] Motion for Attorney Fees Pursuant to Equal Acces to Justice Act is DENIED as moot.

Dated: May 2, 2019.

8

**RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE**

Stipulation; [Proposed] Order
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CERTIFICATE OF SERVICE

I, Howard D. Olinsky, am a citizen of the United States and am at least eighteen years of age. My business address is 300 South State Street, Suite 420, Syracuse, NY 13202. I am not a party to the above-entitled action. On the date set forth below, I caused the following individual(s) to be served with **STIPULATION FOR THE AWARD AND PAYMENT OF ATTORNEY FEES AND EXPENSES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d); [PROPOSED] ORDER** on the date and via the method of service identified below:

CM/ECF:

Nicholas A. Trutanich
Acting United States Attorney
District of Nevada

Tina Naicker, Esq.
Special Assistant United States Attorney
District of Nevada

Tina.Naicker@ssa.gov

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: May 1, 2019 in Syracuse, New York.

/s/ Howard D. Olinsky
HOWARD D. OLINSKY, ESQ.
Olinsky Law Group
Attorney for Plaintiff

Stipulation; [Proposed] Order
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